

GARFUNKEL, WILD & TRAVIS, P.C.
111 Great Neck Road
Great Neck, New York 11021
(516) 393-2200
Attorneys for Defendant
Memorial Sloan-Kettering Cancer Center

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HELEN S. KAHANER, for herself and all others similarly situated,

Plaintiff,

vs.

MEMORIAL SLOAN-KETTERING CANCER
CENTER,

Defendant.

**AFFIDAVIT OF
SAMSON W. FINE, M.D.**

Index No. 07 Civ. 9626 (NRB/KNF)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

SAMSON W. FINE, M.D., being sworn, states:

1. I am a full time physician employee of Memorial Sloan Kettering Cancer Center (“MSKCC”), Defendant in this action. I understand that my employment status with MSKCC is one of the issues involved in this action, and I submit this Affidavit in further support of MSKCC’s motion to dismiss the Complaint. I have personal knowledge of the facts set forth below.

2. MSKCC provides cancer diagnosis and treatment services to patients in New York City. Plaintiff, Helen S. Kahaner, was a patient at MSKCC in February and March 2007. I treated her during that period.

3. I am a full time employed physician at MSKCC. My practice is solely limited to the patients I see at MSKCC. I have no outside practice. I generate my medical practice income solely from the services I provide at MSKCC. The income reflected on my W-2 form previously provided to this Court as part of MSKCC's Motion to Dismiss represents the entirety of my medical practice income.

4. I did not and do not receive any income from Assurant or any other insurance company. I never received the checks allegedly sent by Assurant for the services provided to the Plaintiff. It is my understanding that these checks were received by MSKCC and deposited directly into one of MSKCC's physician group accounts.

5. Accordingly, MSKCC did not bill Assurant or Plaintiff for my services as a third party collecting on my behalf. Rather, MSKCC billed on its own behalf for my services performed as a full time physician employee of MSKCC.

Samson W. Fine
SAMSON W. FINE, M.D.

Sworn to before me this
14 day of May, 2008

Donna G. Bauer
NOTARY PUBLIC

DONNA G. BAUER
Notary Public, State of New York
No. 01BA6002391
Qualified in Westchester County
Filed in New York County
Commission Expires Feb. 9, 2010